

**VIRGINIA BOARD OF NURSING
MINUTES
May 15, 2012**

TIME AND PLACE: The meeting of the Board of Nursing was called to order at 9:00 A.M. on May 15, 2012 in Board Room 2, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.

PRESIDING: Patricia M. Selig, RN, FNP, PhD; President

BOARD MEMBERS PRESENT:

Joyce A. Hahn, PhD, APRN, NEA-BC; Vice President
Evelyn Lindsay, LPN; Secretary
Louise Hartz, Citizen Member
Jeanne E. Holmes, Citizen Member
John M. Horn, LPN
Jane R. Ingalls, RN, CNS, PhD
Florence Jones-Clarke, RN, MS
Patricia C. Lane, RN, BSN
Trula Minton, MS, RN (joined later)
Karen K. Schultz, PhD, MBA, Citizen Member
William Traynham, LPN, CSAC

BOARD MEMBER ABSENT:

Allison Gregory, RN, FNP-BC

STAFF PRESENT:

Jay P. Douglas, RN, MSM, CSAC, Executive Director
Jodi P. Power, RN, JD, Deputy Executive Director
Gloria D. Mitchell, RN, MSN, MBA, Deputy Executive Director
Paula B. Saxby, RN, PhD, Deputy Executive Director
Brenda Krohn, R.N., M.S., Deputy Executive Director
Tomeka Dowling, RN, MS, Nursing Education Consultant
Linda Kleiner, RN, Discipline Case Manager
Ann Tiller, Compliance Manager
Amy Davis, Executive Assistant

OTHERS PRESENT:

Howard M. Casway, Senior Assistant Attorney General
Arne Owens, Deputy Director, Department of Health Professions
Elaine Yeatts, Senior Policy Analyst, Department of Health Professions
Dr. Lauren Goodloe, representative from Virginia Nurses Association
Nursing students from Fortis College

ANNOUNCEMENTS:

- The next meeting of the Committee of the Joint Boards of Nursing and Medicine is June 13, 2012.
- The NCSBN annual meeting is scheduled for August 8 -10, 2012 in Dallas Texas.
- Stephanie Keymont, new Board of Nursing discipline staff was introduced.

ORDERING OF AGENDA: The agenda was reviewed and ordered.

CONSENT AGENDA: The Board removed two items from the proposed consent agenda. Ms. Hartz moved to accept the consent agenda which included the following. The motion was seconded and carried unanimously.

Minutes:

- March 19, 2012 Panel – Dr. Selig
- March 20, 2012 Quorum – Dr. Selig
- March 21, 2012 Quorum – Dr. Selig
- March 21, 2012 Panel – Ms. Lindsay
- March 21, 2012 Panel – Dr. Hahn
- March 22, 2012 Panel – Dr. Hahn
- April 16, 2012 Panel – Ms. Lindsay
- April 23, 2012 Telephone Conference Call – Dr. Selig

Reports:

- Health Practitioners Monitoring Program Report of Statistics
- Agency Subordinate Tracking Log
- Board of Nursing Monthly Tracking Log-Licensure & Disciplinary Statistics

Finance Report:

Ms. Douglas reported on the positive change in cash balance since the fee increase was implemented July 2011 and other DHP efficiency measures in place. Ms. Hartz moved to accept the Finance Report. The motion was seconded and carried unanimously.

Minutes of the April 11, 2012:

Dr. Selig noted the Joint Board minutes of April 11, 2012 that discussed HB346. Regulations were developed as a result of legislation from the 2012 General Assembly and will be presented at the Joint Board meeting in June 2012, then to the Board of Nursing in July 2012.

Ms. Yeatts explained that HB346 has a 280 day emergency enactment clause. Both the Board of Nursing and the Board of Medicine have to adopt emergency regulations as close to July 1 as possible, which stay in place for one year. At the same time, the Board will need to initiate a NOIRA to replace with permanent regulations. Ms. Hartz moved to accept the minutes. The motion was seconded and carried unanimously.

Dr. Schultz noted that there was only one Board of Medicine member present at the April 11, 2012 meeting and asked if that was normal representation. Dr. Selig indicated attendance of Board of Medicine members has been an issue in the past. Ms. Douglas added that conversations have occurred with Dr Harp to encourage attendance and to address this challenge.

REPORTS

Executive Director Report:

Ms. Douglas noted the information in the written report and added the following information:

- The two receptionist positions have been filled, one will begin at the end of this week and the other will begin next week.
- The discipline support staff position has been filled, Ms. Keymont began last week.
- One discipline support staff employee remains on medical leave since December 7, 2011.
- Presentations on behalf of the Board of Nursing include: Ms. Mitchell spoke to the Department of Corrections, Ms. Power spoke to a medical-surgical symposium at Sentara in and Ms. Dowling will speak to Hampton University later this week.
- Judy Piersall, RN, former Board member, will begin serving as an agency subordinate after her orientation in June.
- A review of nursing education program process in being conducted to review correspondence to programs and survey process.

Discipline Committee Report:

Mr. Horn reported on the Discipline Committee meetings held on March 21, 2012. Topics included:

- Drafting a guidance document regarding social media cases incorporating NCSBN and ANA information. Ms. Hartz recommended the word “nurse” be changed to include all professions regulated by the Board of Nursing. Dr. Schultz recommended combining consequences instead of separating by categories of possible and other. Dr. Hahn moved to accept the draft guidance document with the recommended modifications. The motion was seconded and carried unanimously.
- The Committee made no recommendation regarding the Board issuing multiple reprimands to the same licensee in order to not limit the Board.
- The Committee made no recommendation regarding denial of applicants based on non-appearance at proceedings. Action should be based on multiple factors.
- The Committee recommended not to change the process regarding indefinite probation or a fixed length of time for probation, however did revise the initial contact and self report forms to clarify to licensees the term of probation.

Dr. Ingalls moved to accept the March 21, 2012 minutes of the Discipline Committee. The motion was seconded and carried unanimously.

Mr. Horn reported on the Discipline Committee meetings held on April 16, 2012. Topics included:

- The Committee recommended only wage earning nursing practice would be considered to meet conditions for licensees on probation and recommended a guidance document be developed for this issue. Mr. Traynham moved to accept the recommendation for a guidance document. The motion was seconded and carried unanimously.

- The Committee reviewed guidance document 90-12 regarding delegation of authority to staff. Suggestions to include all professions regulated by the Board were made. Mr. Traynham moved to accept the revised guidance document with changes. The motion was seconded and carried. Dr. Hahn, Ms. Lindsay, Ms. Hartz, Ms. Holmes, Mr. Horn, Dr. Ingalls, Ms. Jones-Clarke, Ms. Lane, Dr. Schultz and Mr. Traynham were in favor of the motion. Dr. Selig opposed the motion.

RECESS: The Board recessed at 10:15 A.M.

RECONVENTION: The Board reconvened at 10:27 A.M.

NCSBN CORE Focus Group Meeting:

Ms. Douglas reported that Virginia was asked to participate in this at the NCSBN meeting in April as Virginia has been identified as a high performing board regarding the discipline process.

NURSYS Data Integrity Project:

Ms. Douglas stated the Board of Nursing received Phase 2 funding to continue working on correcting records in NURSYS. Ms. Douglas congratulated Ms. Tiller on her work with this project.

Dialogue with Agency Director:

Dr. Reynolds-Cane and Mr. Owens were present. Dr. Cane provided the following information:

- All three DHP legislative proposals were passed, including HB 885 and SB 415 which provides licensure exemption for nurses licensed in other states practicing in a summer camp or specified recreational or educational activities.
- Annual briefings of each department are being conducted.
- The PMP formally introduced a program to help reduce drug abuse by using an inter-operable program that includes seven states.
- Video conference capabilities are now available and will help to reduce expenses related to travel when a video conference can be used instead of traveling.

OPEN FORUM: Joanne King, RN was present and shared her concerns regarding nursing education programs lack of clinical experiences in correctional facilities. She also stated correctional facilities do not have adequate nursing staff on shifts resulting in as many as 1200 inmates and one nurse. She requested a task force be developed to improve these issues.

The Board took no action on this matter.

OTHER MATTERS:

Board Counsel Update on Appeals:

Mr. Casway reported on appeals regarding Board of Nursing cases:

- Colby Mansell, RN – Spotsylvania Circuit Court dismissed Mr. Mansell's appeal and upheld the Board of Nursing decision.

- Sylvester Britt, RN – Portsmouth Circuit Court upheld the Board of Nursing decision.

Mr. Casway expressed his appreciation to the Board to develop decisions that are able to withstand the appeal process. Appeals that are pending include:

- Darlene Bamaiyi, CNA Endorsement Applicant and Reinstatement Applicant – Currently submitting briefs before oral arguments scheduled for May 31, 2012 in Hampton Circuit Court.
- Susan Prior, RN – Filed an appeal in Fairfax Circuit Court. Her request for immediate stay was denied. Venue was changed to Henrico Circuit Court per a motion filed by the Commonwealth. A hearing date has not been set at this time.
- Rosaline Kamara, CNA – notice of appeal filed in Prince William Circuit Court, a petition for appeal has not been received.
- Stephanie Kapalka, RN – filed appeal in Alexandria Circuit Court.

Mr. Casway encouraged Board members and staff to attend hearings when possible.

Frequency of Board of Nursing Meetings:

Dr. Selig acknowledged the huge time commitment from Board members to attend meetings. Dr. Selig and Ms. Douglas are exploring options to reduce the number of meetings.

Proposed Guidance Document 90-61 – Disciplinary Action Related to Unlicensed Practice:

After reviewing the proposed guidance document, Dr. Selig suggested to clarify that cases regarding unlicensed practice for a period greater than one year would be presented to the Board. Ms. Hartz moved to change “unlicensed” to include certified and registered. The motion was seconded and carried. Dr. Selig, Dr. Hahn, Ms. Lindsay, Ms. Hartz, Ms. Holmes, Mr. Horn, Dr. Ingalls, Ms. Jones-Clarke and Ms. Lane were in favor of the motion. Dr. Schultz and Mr. Traynham opposed the motion.

Ms. Hartz moved to reconsider Guidance Document 90-12 voted on earlier in the meeting to add another item for other occupations and to refer to 90-61. The motion was seconded and carried unanimously.

Ms. Hartz moved to amend Guidance Document 90-38 to reflect changes made to 90-61. The motion was seconded and carried unanimously.

Review of Current Board of Nursing Guidance Documents:

Ms. Krohn provided an update on the review of current guidance documents. The documents are being reviewed for accuracy and validity. Guidance documents are being grouped according to subject matter in an effort to make it easier for public access. When the initial review is completed, a committee appointed by the Board will review and submit to the Board for approval.

Medication Aide Curriculum Review:

Ms. Krohn reported a request has been sent to all medication aide training programs to seek input and feedback regarding the medication aide curriculum. An ad hoc committee is needed to review information obtained. Dr. Selig and Mr. Traynham volunteered to work with Ms. Krohn.

EDUCATION:

Education Special Conference Committee:

Dr. Hahn reviewed the May 9, 2012 minutes of the Education Special Conference Committee. Noted items include continued problems with obtaining clinical sites/experiences; faculty shortages and funding in general for nursing education programs. Ms. Hartz moved to accept the minutes of the May 9, 2012 meeting excluding the recommended decision regarding Southside Virginia Community College. The motion was seconded and carried unanimously.

Ms. Minton joined the meeting.

Ms. Hartz moved to accept the recommended decision regarding Southside Virginia Community College. The motion was seconded and carried unanimously.

NNAAP Exam Proposed Changes:

Dr. Saxby provided information regarding the proposed changes to the NNAAP exam. Dr. Saxby stated when the changes proposed in November 2011 were presented, it did not highlight all changes. During training sessions conducted by Pearson VUE, NACES and Board of Nursing staff to nurse aide education programs throughout the state in March 2012, Dr. Saxby discovered there were changes to the skills exam that had not been presented to the Board in the November 2011 information that included the cut score for each skill the timeframe for each skill or skill set and the skill that would be included in the mix of five skill sets.

CLOSED MEETING:

Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711 (11) of the *Code of Virginia* at 11:54 A.M. for discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to subdivision 4 of 2.2-3705.1. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Dr. Saxby, Ms. Dowling, Ms. Kleiner, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION:

The Board reconvened in open session at 12:24 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

The Board decided to call Phil Dickerson with NCSBN to discuss this issue. Mr. Dickerson will be available by phone today between 1:00 P.M. and 2:00 P.M.

RECESS: The Board recessed at 12:25 P.M.

RECONVENTION: The Board reconvened at 1:20 P.M.

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711 (11) of the *Code of Virginia* at 1:27.M. for discussion or consideration of tests, examinations or other records excluded from this chapter pursuant to subdivision 4 of 2.2-3705.1 Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Dr. Saxby, Ms. Dowling, Ms. Kleiner, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:15 P.M. after a conversation by telephone with Phil Dickerson with NCSBN regarding the NNAAP exam.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

The motion was seconded and carried unanimously.

ACTION: Dr. Schultz suggested a letter from the Board to NCSBN that includes an overview of the items discussed by phone with Mr. Dickerson.

Ms. Lane moved to delay implementation of the proposed changes to the NNAAP exam for six months. The motion was seconded and carried unanimously.

LEGISLATION/REGULATION:

Status of Regulatory Actions:

Ms. Yeatts reviewed the pending regulatory action for the Board of Nursing.

- Regulations regarding provisional licensure as a registered nurse remains at the Secretary's Office.
- Regulations regarding continued competency requirements remains at the Governor's Office.
- Regulations regarding requirements for approval of nursing education programs are at the Secretary's Office.
- Regulations regarding failure to report abuse grounds for disciplinary action is at the Governor's Office.

HB543:

Ms. Yeatts provided an overview of HB543, explaining that the original version passed by the General Assembly changing certification of massage

therapists to licensure of massage therapists was amended by the Governor during the veto session. The amended version deleted the licensure provision but retained the provision to accept the exam (MBLEX) of the Federation of State Massage Therapy Boards effective July 1, 2012.

Dr. Saxby, Ms. Dowling and Ms. Yeatts left the meeting.

CONSIDERATION OF CONSENT ORDERS AND RECOMMENDATIONS REGARDING APPLICANTS:

CLOSED MEETING: Ms. Lindsay moved that the Board of Nursing convene a closed meeting pursuant to Section 2.2-3711(A)(27) of the *Code of Virginia* at 2:20 P.M. for the purpose of deliberation to consider consent orders and recommendations regarding applicants. Additionally, Ms. Lindsay moved that Ms. Douglas, Ms. Mitchell, Ms. Power, Ms. Krohn, Ms. Tiller, Ms. Kleiner, Ms. Davis and Mr. Casway attend the closed meeting because their presence in the closed meeting is deemed necessary and their presence will aid the Board in its deliberations. The motion was seconded and carried unanimously.

RECONVENTION: The Board reconvened in open session at 2:35 P.M.

Ms. Lindsay moved that the Board of Nursing certify that it heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened. The motion was seconded and carried unanimously.

Jennifer Engelhart, LPN 0002-075141

Dr. Hahn moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the practical nurse license of Jennifer Engelhart. The motion was seconded and carried unanimously.

Debra Young, CNA 1401-102763

Dr. Hahn moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the nurse aide certificate of Debra Young. The motion was seconded and carried unanimously.

Tracey Callison, RN 0001-212612

Dr. Hahn moved to accept the consent order to accept the voluntary surrender for indefinite suspension of the registered nurse license of Tracey Callison. The motion was seconded and carried unanimously.

Margaret F. Wilson, LPN 0002-025040

Dr. Hahn moved to accept the consent order to reprimand Margaret Wilson and to indefinitely suspend the practical nurse license of Ms. Wilson. The motion was seconded and carried unanimously.

Kimberly M. Haywood, RN 0001-198567

Dr. Hahn moved to accept the consent order to reprimand Kimberly Haywood and to indefinitely suspend the registered nurse license of Ms. Haywood. The motion was seconded and carried unanimously.

Stephanie B. Duke, RN 0001-160136

Dr. Hahn moved to accept the consent order to reprimand Stephanie Duke and to accept the voluntary surrender for indefinite suspension of the registered nurse license of Ms. Duke. The motion was seconded and carried unanimously.

Reva G. Neel, RN 0001-102544

Dr. Hahn moved to accept the consent order to indefinitely suspend the registered nurse license of Reva Neel, stay the suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Amanda Propps, RN 0001-222961

Dr. Hahn moved to accept the consent order to indefinitely suspend the registered nurse license of Amanda Propps, stay the suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Tammy McWay, LPN 0002-045683

Dr. Hahn moved to accept the consent order to reprimand Tammy McWay and to indefinitely suspend the practical nurse license of Ms. McWay. The motion was seconded and carried unanimously.

Leann Beverly, RN 0001-214900

Dr. Hahn moved to accept the consent order to reprimand Leann Beverly and to indefinitely suspend the registered nurse license of Ms. Beverly, stay the suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

Rachel Y. Craddock, LPN 0002-059799

Dr. Hahn moved to accept the consent order to indefinitely suspend the practical nurse license of Rachel Craddock, stay the suspension contingent upon proof of entry into the Health Practitioners Monitoring Program and thereafter remaining in compliance with the Health Practitioners Monitoring Program. The motion was seconded and carried unanimously.

National School of Nursing and Allied Health Practical Nursing Education Program

Dr. Hahn moved to accept the consent order to withdraw approval to operate a practical nursing education program in Virginia. The motion was seconded and carried unanimously.

Ashley Brown, CNA Applicant

Ms. Lindsay moved to accept the recommended decision of the informal conference committee to approve the application of Ashley Brown for certification as a nurse aide by examination and to issue a reprimand to Ms. Brown. The motion was seconded and carried unanimously.

Paul Pollock, CNA Applicant

Ms. Lindsay moved to accept the recommended decision of the agency subordinate to deny the application of Paul Pollock for certification as a nurse aide by examination based on a finding of abuse to be entered in the Virginia Nurse Aide Registry. The motion was seconded and carried unanimously.

Shaquana Moore, LPN Applicant

Ms. Lindsay moved to accept the recommended decision of the informal conference committee to deny the application of Shaquana Moore for licensure as a practical nurse by endorsement. The motion was seconded and carried unanimously.

Violet K. Leth, LPN 0002-019204; RMA Applicant

Ms. Jones-Clarke moved to reject the recommended decision of the informal conference committee and to deny the application of Violet Leth for registration as a medication aide by examination. The motion was seconded and carried. Dr. Selig, Ms. Lindsay, Ms. Hartz, Ms. Holmes, Dr. Ingalls, Ms. Jones-Clarke, Ms. Lane and Ms. Minton were in favor of the motion. Dr. Hahn, Mr. Horn, Dr. Schultz and Mr. Traynham opposed the motion.

POLICY FORUM:

Presentation of NCSBN Mid Year Meeting:

Board members were to view a segment recorded from the NCSBN Mid Year meeting titled “I Know You are Lying” however technical difficulties prevented this from being completed. Board members were provided instructions on how to access this video on their own.

ADJOURNMENT:

As there was no additional business, the meeting was adjourned at 3:00 P.M.

Evelyn Lindsay, L.P.N.
Secretary

Note - Copies of reports referenced can be obtained by contacting the Board of Nursing office.